



*To promote the economic, social and environmental viability of Northern California by enhancing and preserving the water rights, supplies and water quality of our members.*

May 30, 2008

Ms. Delores Brown  
Chief  
Office of Environmental Compliance  
Department of Water Resources  
P.O. Box 942836  
Sacramento, California 94236

Re: Comments on the Notice of Preparation of an Environmental Impact Report and Environmental Impact Statement (EIR/EIS) for the Bay Delta Conservation Plan (BDCP)

Dear Ms. Brown:

Thank you for the opportunity to provide comments to inform the preparation of an EIR/EIS for the BDCP. The Northern California Water Association (NCWA) and its counsel have reviewed the Notice of Preparation (NOP), as well as the BDCP Planning Agreement and Points of Agreement documents, and provide the following comments.

#### General Requirements

As an initial matter, a BDCP and the EIR/EIS must: be based on good science; respect the legal rights of the watersheds of origin; and allocate the costs of implementing the BDCP or any alternatives/mitigation measures based on a "beneficiary pays" principle.

#### Geographic Scope of BDCP

The project description within the NOP explains that the project under review is a

conservation plan covering the Statutory Delta, including new dual or isolated conveyance infrastructure for the Delta. NCWA generally supports the efforts to develop a mechanism that will protect the Bay-Delta ecosystem while providing assurances for water deliveries so long as BDCP conservation requirements are limited to the Statutory Delta. NCWA supports the notion that, where related actions outside of the Statutory Delta are deemed necessary to further the goals and objectives of the BDCP, future voluntary agreements with local agencies, non-governmental organizations, landowners, and others will be negotiated to facilitate cooperative conservation activities. (Planning Agreement, p. 11, ¶ 5; NOP, p. 7.) NCWA stresses the importance of not imposing regulatory requirements outside of the Statutory Delta through the BDCP because it is unlawful for a voluntary HCP to impose requirements on non-participating parties.

To the extent that the BDCP includes proposed voluntary agreements with upstream water users that would address issues in the Delta, the scope of those agreements must be well-defined in the EIR/EIS project description. Similarly, any voluntary arrangements outside of the Statutory Delta must not interfere with numerous fish and wildlife conservation efforts already underway outside the Statutory Delta.

#### Upstream Impacts

The NOP suggests that the BDCP will involve operational changes to the Central Valley Project (CVP) and State Water Project (SWP). These operational changes will result in environmental and water supply impacts related to the Sacramento and Feather Rivers that must be addressed in the EIR/EIS. These impacts include, but are not necessarily limited to, impacts on existing and ongoing conservation activities upstream, impacts to water supply diversions from those Rivers, impacts to agricultural and wildlife

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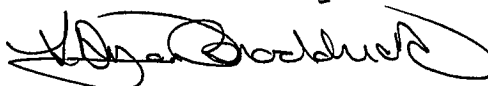
refuge uses dependent upon said diversions, and impacts to regional water supply planning activities such as the Sacramento Valley Integrated Regional Water Management Plan. The BDCP EIR/EIS must contain mitigation measures and alternatives that minimize any such impacts.

Comprehensive Analysis

The EIR/EIS must provide a comprehensive environmental analysis of all of the BDCP's elements. The EIR/EIS cannot defer environmental studies of any element of the BDCP.

Thank you for the opportunity to comment. As noted in the NOP, the BDCP planning effort is in "the preliminary stages of development, and further information regarding the various features of the BDCP may be provided to the public in subsequent public notices and/or in scoping meetings." (NOP, p. 1.) Without additional information, it is impossible to anticipate all of the potential effects of the BDCP. NCWA provides these preliminary comments based on the information currently provided, but plans to supplement these comments upon receipt of more detailed information about the BDCP conservation and conveyance activities.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Ryan Broddrick", written over a horizontal line.

L. Ryan Broddrick  
Executive Director